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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/542,478

09/26/2005

Bernd Pfannschmidt

PFANNSCHMIDT

7001

20151 7590 09/25/2008

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NEW YORK, NY 10017

EXAMINER

LE, MARK T

ART UNIT

PAPER NUMBER

3617

MAIL DATE

DELIVERY MODE

09/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/542,478	Applicant(s) PFANNSCHMIDT, BERND	
	Examiner MARK T. LE	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 14 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-13 and 19-21 is/are allowed.
- 6) ☒ Claim(s) 7-10 and 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election without traverse of Group III, including claims 7-13 and 15-21 in the reply filed on August 6, 2008 is acknowledged.
2. The abstract of the disclosure is objected to because phrases that can be implied, such as " ... according to the invention" in the last line of the abstract, should be avoided.. Correction is required. See MPEP § 608.01(b).
3. References to the instant claims, such as that found in paragraph [0006] of the instant specification, should be avoided because the subject matters of the claims may change during the course of prosecution.
4. Claims 7-10 and 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the instant claims, several means plus function clauses are noted; however, it is not clear as to whether these means plus function clauses are intended to invoke means plus function in accordance with 35 U.S.C. 112, sixth paragraph. Note for example, claim 7 calls for "second fastening means for securement of the stator lamination stack to the guideway beam", which appears to suggest an invoking of means plus function under 35 U.S.C. 112, sixth paragraph; however, in claim 10, the second fastening means is claimed to have a sleeve-shaped configuration, which claims the specific structure for performing the function associated with the claimed means, and thus, claim 10 does not qualify as means plus function under 35 U.S.C. 112, sixth paragraph. Applicant is suggested to either avoiding to using the word means in the

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claims or deleting the specific structures for performing the functions associated with the word "means".

In claims 17-18, it is not clear as to whether the instant claimed load-bearing bolts form parts of the first and/or second fastening means recited in claim 7.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7-10, 15 and 17-18 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over German reference DE 196 19 867 in view of Japanese reference 09037413.

The German reference discloses a support structure similar to that recited in the instant claims, including guideway beam 1,2, base support 5, stator pack 3 supported by a U-shaped section mounted to the guideway beam, and means 4 for positioning and securement of the guideway beam member to the base support. Regarding the structure of stator pack, consider stator pack 33 of the Japanese reference, which includes a plurality of laminations 331 having aligned bores for receiving fastening device 334 that comprises a long bolt, a nut, and associated washers; wherein, the fastening device of the Japanese reference having the above elements forms the first and second fastening means as broadly claimed. In view of the Japanese reference, it would have been obvious to one skilled in the art to mount a stator pack to the U-shaped section of the German reference, in a manner similar to that taught by the

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Japanese reference, because the German does not provide the specific details of the mounting for one skilled in the art to follow.

Regarding the instant claimed bores and openings, as recited in claim 8, note that the structure of the German reference, as modified, includes bores and openings corresponding that the recited in the instant claim.

Regarding the instant claimed welding, as recited in instant claim 9, note that the use of welding for a strong connection that is not easily becoming loosed is well known (Official Notice is taken). Therefore, it would have been obvious to one skilled in the art to use a well known weld instead of a nut in the fastening device of the German reference, as modified, so as to achieve a strong connection that is not easily becoming loosed.

Regarding the instant claimed second fastening means having a sleeve-shaped configuration, as recited in instant claim 10, consider the nut associated with fastening device 334 of the Japanese reference.

Regarding the instant claims 17-18, consider the load bearing bolt of fastening device 334 of the Japanese reference, which appears to extend out from the bore of the stator stack in "about" the range of distances as claimed.

7. Claim 16 (as best understood) is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 8 above, and further in view of Raschbichler (US 5,370,059) and Schwarzler (US 3,967,561).

Regarding the instant claimed coils and caps recited in instant claim 16, note that such coils and caps are well known in the art. Note for example, coils 3 of Raschbichler

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and cap 29 of Schwarzzler. Therefore, it would have been obvious to one skilled in the art to include such well known coils and caps in the structure of German reference, as modified, for performing the expected functions thereof.

8. Claims 11-13 and 19-21 are allowable.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK T. LE whose telephone number is (571)272-6682. The examiner can normally be reached on Mon-Fri, between 8:15-4:45 (Teleworking).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Le/
Primary Examiner
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9/22/08